
From: Keith Allred
Sent: Wednesday, September 26, 2012 2:42 PM
To: 'info@barthlab.com'
Cc: 'contact@barthlab.com'
Subject: BRUXZIR Infringement - Barth DL.doc

NOTICE OF TRADEMARK INFRINGEMENT



September 26, 2012

TRANSMITTED VIA EMAIL, FAX
AND DELIVERED BY U.S. MAIL

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Attn: Mr. George:

Re: Infringement of Glidewell Laboratories' BruxZir® Trademarks, Misbranding, Violation of Federal Acts and State Statutes and Unfair Business Practices

The serious matter of your infringement of my client's proprietary property rights in connection with the unauthorized use of Glidewell Laboratories' registered trademarks has come to our attention.

Glidewell Laboratories has for years used the mark BRUXZIR both nationally and internationally to identify its dental laboratory goods and services in the US and its CE certified BruxZir® zirconia milling blanks in Europe. The company enjoys considerable good will associated with its use of the aforesaid mark.

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The promotion of dental laboratory services to dentist by your lab of a Z-Brux crown is using a similar mark where there is an appreciable likelihood of confusion and a palming off goods by an unauthorized substitution of one brand for the brand ordered, which in this instance is a deliberate misappropriation of intellectual capital for commercial purposes that is actionable unfair competition under California law (California Business and Professions Code §17200)

Under federal law, Trademark infringement is presumptively an unfair exploitation of the monopoly privilege that belongs to the owner of the mark. Infringement is a 'tarnishment' of the owner's mark and results in "brand confusion" and the likelihood of 'initial interest' confusion as to the actual identity of the source of the goods and services.

For the above reasons, we must insist that you immediately cease use of the infringing marks in your promotions and elsewhere. Should you not terminate use of the mark, Glidewell Laboratories reserves its rights to take legal action to stop you from using the mark by seeking an injunction, monetary relief, and attorney fees.

Please contact me, or have your attorney contact me, within ten days of receipt of this communication if you are unsure about the appropriate steps that you must take to avoid liability for your refusal to discontinue your use of the infringing marks. Additionally, if you wish to be on the list of BruxZir® authorized dental laboratories, call Glidewell Direct.

Your prompt attention is appreciated.

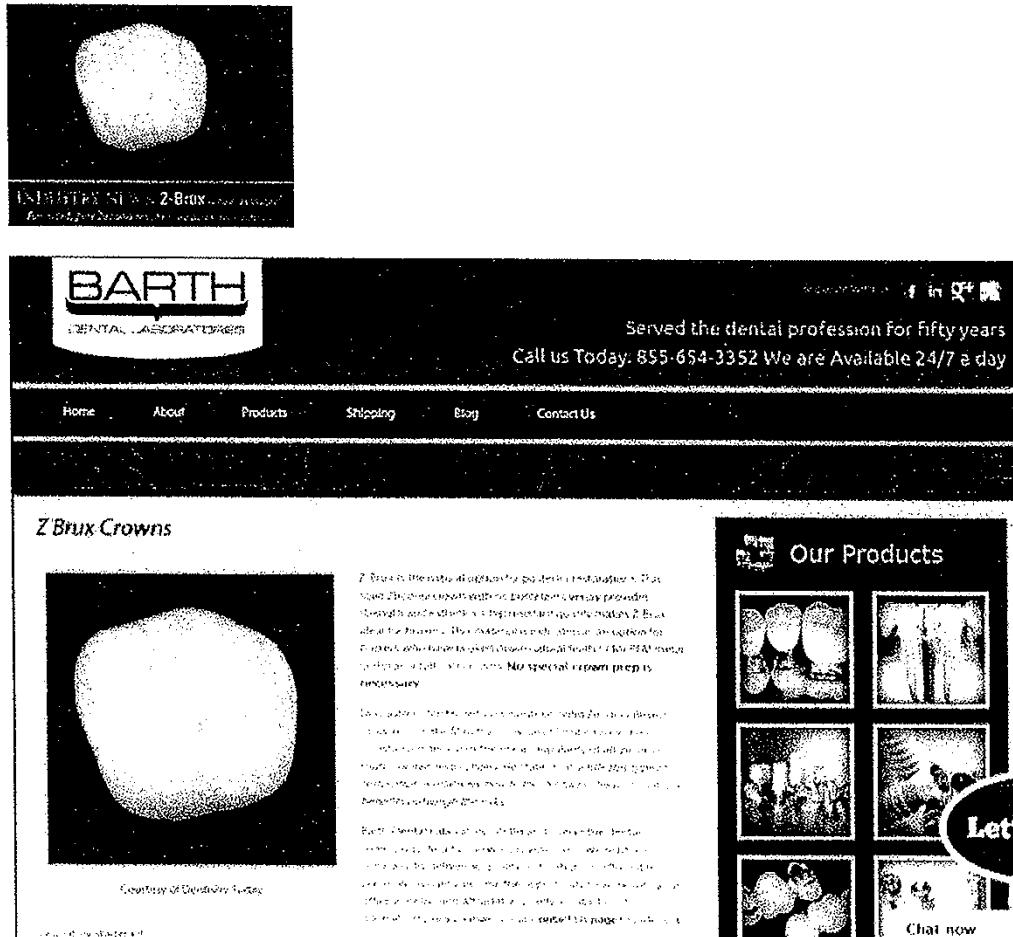
Sincerely,

KEITH D. ALLRED
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-- ATTACHMENT "A" --

Note: Your signature image is not the property of *Dentistry Today*—it is the property of Assured DL. (Assured no longer uses the Z-Brux trademark because they realize that it is confusingly similar to the BruxZir® and constitutes an infringement of the owners proprietary IP interests).



Note: You have misstated what Dr. Christensen has written when you say that he talked about "Solid Zirconia Bruxor Crowns." As you can see below, Dr. Christensen responded to a question from a reader who asked for Dr. Christensen's opinion about "all zirconia tooth-colored indirect restoration," and general and included the observation that this was a concept that, "was started by Glidewell Laboratories and is called BruxZir" restorations (see below).

by Gordon J. Christensen, DDS, MSD, PhD

In this monthly feature Dr. Gordon Christensen addresses the most frequently asked questions from *Dental Economics*® readers. If you would like to submit a question to Dr. Christensen, please send an e-mail to info@pc dental.com.

For more on this topic, go to www.dentaleconomics.com and search using the following key words: zirconia-based restorations, all-zirconia restorations, porcelain-fused-to-metal tooth-colored restorations, prostheses. Dr. Gordon Christensen

Q. Many of my patients prefer to avoid the use of metal in their mouths. I have suffered through the significant failures of many versions of all-ceramic restorations, and I'm not eager to try other all-ceramic restorations without sufficient positive research showing that they are working. There are many ads in dental journals about the newest form of all-zirconia tooth-colored indirect restorations. I think that concept was started by Glidewell Laboratories and is called BruxZir. All-zirconia restorations are advertised as excellent single- and multi-unit tooth colored restorations. What can you tell me about this newest unknown?

Moreover, Dr. Christensen talks about the class of all-zirconia restorations in general. In doing so, Dr. Christensen did not refer to this class of restoration as if they are known generically as—e.g., "Solid Zirconia BruxZir Crowns." Additionally, Dr. Christensen demonstrates in his answer that he is well-aware of Glidewell Laboratories as the owner of the BruxZir® trademark—i.e.,

- All-zirconia (Fig. 2). You were correct when you noted that Glidewell Laboratories initiated this type of restoration. After labs gained experience with zirconia-based restorations, they found a frustrating problem. Many of the tooth preparations being sent to them by dentists were too shallow to allow both a zirconia substructure (posterior 0.5mm and anterior 0.3mm) and a layer of fired or pressed ceramic on the external surface. Therefore the technicians, in spite of having been taught to place fired or pressed ceramic on the outside of the zirconia, decided to try just the zirconia without any external layer of ceramic.



Fig. 2: This all-zirconia restoration made by Glidewell Laboratories is impressive esthetically. Long-term continued clinical research on the all-zirconia concept is necessary to validate these restorations.

With this background, I will now answer your question to the best of my ability with the knowledge that we have in 2011. I fully admit that the profession, certainly including me, does not know much about all-zirconia restorations at this time.

And further down in the article Dr. Christensen states, as follows...

- Esthetic potential of all-zirconia crowns and fixed prostheses. The company that started this type of restoration (Glidewell Laboratories) has been able to produce restorations with good esthetic characteristics. The photo in Fig. 1 shows an all-zirconia fixed partial denture made by Glidewell Laboratories. I asked them to show what they can do esthetically with their all-zirconia concept, and the result is shown in Fig. 1. I must admit it looks very good. Will any stains placed on the zirconia surface wear off? Only time will tell. Will the long-term esthetic result be as good as with PFM or zirconia-based restorations? Again, clinical observation will answer these questions.

- Long-term service potential of all-zirconia restorations. Based on the immediate popularity of all zirconia restorations, it appears to me that patients would rather have strong, relatively esthetic restorations in preference to undetectable but questionably strong restorations. I must admit, I agree! When a patient in the U.S. has paid about \$1,000 for a crown or \$3,000 for a three-unit fixed prosthesis, that patient should expect the restoration to serve for a respectable period of years.
- Cost of all-zirconia restorations. Currently, over 10 companies provide all-zirconia restorations at costs to dentists that are lower on average than PFM restorations from the same laboratories. That difference makes sense, since milling of these restorations is relatively simple, the cost of zirconia is not high, and there is no external veneering layer on the all-zirconia restoration...

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